

## LEGISLATIVE BILL 412

Approved by the Governor May 26, 2003

Introduced by Speaker Bromm, 23; at the request of the Governor

AN ACT relating to public health and welfare; to amend sections 71-1628.07, 71-1628.08, 71-5714, 71-7606, 71-7607, 71-7608, 71-7609, 71-7611, and 71-7614, Revised Statutes Supplement, 2002; to change and eliminate provisions relating to local public health departments and health care funding; to change and eliminate powers and duties; to harmonize provisions; to provide an operative date; to repeal the original sections; to outright repeal sections 71-1628.02, 71-1628.03, and 71-7611.01 to 71-7611.08, Revised Statutes Supplement, 2002; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 71-1628.07, Revised Statutes Supplement, 2002, is amended to read:

71-1628.07. (1) The Department of Health and Human Services shall establish a satellite office of minority health in each congressional district to coordinate and administer state policy relating to minority health. Each office shall implement a minority health initiative in counties with a minority population of at least five percent of the total population of the county as determined by the most recent federal decennial census which shall target, but not be limited to, infant mortality, cardiovascular disease, obesity, diabetes, and asthma.

(2) ~~In any congressional district which has a minority population over seventy-five thousand inhabitants, any funds appropriated under subdivision (2)(a) of section 71-7611.03 shall be distributed as follows: Seventy percent to federally qualified health centers which serve primarily African Americans and thirty percent to federally qualified health centers which serve primarily Spanish-speaking persons and Native Americans.~~

~~(3) Each office shall prepare an annual report regarding the implementation of the minority health initiative in the prior minority health initiatives implemented in the immediately preceding fiscal year. The report shall be submitted to the department by October 1. The department shall submit the report such reports to the Health and Human Services Committee of the Legislature by December 1.~~

Sec. 2. Section 71-1628.08, Revised Statutes Supplement, 2002, is amended to read:

71-1628.08. (1) The County Public Health Aid Program is created. Aid as appropriated by the Legislature from the Nebraska Health Care Cash Fund shall be distributed in each fiscal year as provided in subsections (2) through (4) of this section.

~~(2) The department shall reserve two million dollars in each fiscal year for purposes of this subsection. Of funds appropriated by the Legislature under subsection (1) of this section, the following amounts shall be distributed to local public health departments established under sections 71-1626 to 71-1636:~~

~~(a) One hundred thousand dollars shall be distributed each fiscal year to each local public health department established under sections 71-1626 to 71-1636 which is composed of by at least three contiguous counties and has with a total population of at least thirty thousand and not more than fifty thousand persons;~~

~~(b) residents within its geographically defined community. One hundred twenty-five thousand dollars shall be distributed each fiscal year to each local public health department established under sections 71-1626 to 71-1636 which has by one or more counties with a total population of more than fifty thousand and not more than one hundred thousand persons; and~~

~~(c) residents within its geographically defined community. One hundred fifty thousand dollars shall be distributed each fiscal year to each local public health department established under sections 71-1626 to 71-1636 which has by one or more counties with a total population of more than one hundred thousand persons. residents within its geographically defined community. Each local public health department shall use such funds for establishment, management, and operation of such department and its core public health functions. The Health and Human Services Committee of the Legislature shall annually review the number of local public health departments accessing funds pursuant to this subsection.~~

(3) ~~The department shall allocate a percentage of the remainder of~~

~~funds appropriated under the County Public Health Aid Program to each county. Any appropriated funds not distributed under subsection (2) of this section shall be allocated among all counties on a per capita basis as determined by the most recent federal decennial census. The funds allocated for each county shall be distributed to the local public health department which is established by the county and receiving funding under subsection (2) of this section. Any appropriated funds that are not distributed under this subsection in any fiscal year shall not be reappropriated under this section. of the county if the county has more than fifty thousand residents or the local public health department of which the county is a part if the department is composed of at least three counties and has at least thirty thousand residents within its geographically defined community. If a county does not have or is not a part of such a local public health department, the county's share of funds under this subsection shall be held for the remainder of the fiscal year and may be distributed to the county at any time during such year if the county establishes a local public health department pursuant to section 71-1628.02 or enters an interlocal agreement to establish or become a part of a local public health department pursuant to section 71-1628.02 or 71-1628.03.~~

(4) Funds received by a local public health department appropriated under this section shall not be used to replace or reduce any existing county funding to ~~such any local public health department.~~ Funding for any local public health department under this section shall be reduced to offset any such replacement or reduction.

Sec. 3. Section 71-5714, Revised Statutes Supplement, 2002, is amended to read:

71-5714. The Tobacco Prevention and Control Cash Fund is created. ~~Except as otherwise provided in this section, the~~ The fund shall be appropriated by the Legislature used for a comprehensive statewide tobacco-related public health program, ~~including, but~~ administered by the Department of Health and Human Services which includes, but is not limited to: (1) ~~Community~~ community programs to reduce tobacco use, (2) chronic disease programs, (3) school programs, (4) statewide programs, (5) enforcement, (6) counter marketing, (7) cessation programs, (8) surveillance and evaluation, and (9) administration. ~~and (10) the Teen Tobacco Education and Prevention Project. The Legislature is not required to appropriate all available revenue from the Tobacco Prevention and Control Cash Fund for such purpose in any given year. The Health and Human Services Committee of the Legislature shall make annual recommendations for appropriations from the fund. The State Treasurer shall transfer five million dollars from the Tobacco Prevention and Control Cash Fund to the Department of Health and Human Services Finance and Support Cash Fund within five days after April 9, 2002. Any money in the Tobacco Prevention and Control Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.~~

Sec. 4. Section 71-7606, Revised Statutes Supplement, 2002, is amended to read:

71-7606. (1) The purpose of the Nebraska Health Care Funding Act is to provide for the use of dedicated revenue from specifically named funding sources for health-care-related expenditures.

(2) ~~Except as otherwise provided, any~~ Any funds appropriated or distributed under the act shall not be considered ongoing entitlements or obligations on the part of the State of Nebraska and shall not be used to replace existing funding for existing programs.

(3) No funds appropriated or distributed under the act shall be used for abortion, abortion counseling, referral for abortion, school-based health clinics, or research or activity of any kind involving the use of human fetal tissue obtained in connection with the performance of an induced abortion or involving the use of human embryonic stem cells or for the purpose of obtaining other funding for such use.

(4) The Department of Health and Human Services and the Department of Health and Human Services Finance and Support shall report annually to the Legislature and the Governor regarding the use of funds appropriated under the act and the outcomes achieved from such use.

Sec. 5. Section 71-7607, Revised Statutes Supplement, 2002, is amended to read:

71-7607. (1) The Nebraska Medicaid Intergovernmental Trust Fund is created. The fund shall include revenue received from governmental nursing facilities receiving payments for nursing facility services under the medical assistance program established pursuant to section 68-1018. The Department of Health and Human Services Finance and Support shall remit such revenue to the State Treasurer for credit to the fund. ~~and except that (a) of such revenue received on or after July 1, 2001, nine million two hundred thousand dollars~~

shall be remitted to the State Treasurer for credit to the Department of Health and Human Services Cash Fund and (b) of such revenue credited to the Nebraska Medicaid Intergovernmental Trust Fund in October 2001, the State Treasurer shall transfer five million eight hundred forty-six thousand five hundred ninety-three dollars to the Department of Health and Human Services Finance and Support Cash Fund within five days after November 9, 2001. The department shall adopt and promulgate rules and regulations to establish procedures for participation by governmental nursing facilities and for the receipt of such revenue under this section. Money from the Nebraska Medicaid Intergovernmental Trust Fund shall be transferred to the Nebraska Health Care Cash Fund as provided in section 71-7611.

(2) ~~If there is an unanticipated reduction in federal medicaid funds derived pursuant to this section, the~~ The department may use revenue in the Nebraska Medicaid Intergovernmental Trust Fund to offset ~~the amount of such reduction~~ any unanticipated reductions in medicaid funds received under this section.

(3) Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 6. Section 71-7608, Revised Statutes Supplement, 2002, is amended to read:

71-7608. The Nebraska Tobacco Settlement Trust Fund is created. The fund shall include any settlement payments or other revenue received by the State of Nebraska in connection with any tobacco-related litigation to which the State of Nebraska is a party. The Department of Health and Human Services Finance and Support shall remit such revenue to the State Treasurer for credit to the fund. ~~except that, of such revenue received on or after April 1, 2000, twenty-one million dollars shall be credited to the Tobacco Prevention and Control Cash Fund as follows: (1) Seven million dollars in FY1999-00, (2) seven million dollars in FY2000-01, and (3) seven million dollars in FY2001-02.~~ Subject to the terms and conditions of such litigation, money from the Nebraska Tobacco Settlement Trust Fund shall be transferred to the Nebraska Health Care Cash Fund as provided in section 71-7611. Any money in the Nebraska Tobacco Settlement Trust Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 7. Section 71-7609, Revised Statutes Supplement, 2002, is amended to read:

71-7609. The Nursing Facility Conversion Cash Fund is created. The fund shall be used for grants or loan guarantees made by the Department of Health and Human Services Finance and Support prior to January 1, 2002, to nursing facilities for capital or one-time expenditures to convert all or a portion of such facilities to licensed assisted-living facilities or other alternatives to nursing facility care after deducting expenses incurred in the administration of such grants or loan guarantees. Grants or loan guarantees awarded from the fund prior to January 1, 2002, may be paid to eligible recipients. This section terminates on January 1, 2003. The On or before July 15, 2003, the State Treasurer shall transfer any unobligated balance in the fund upon termination of this section to the Department of Health and Human Services Finance and Support to the Nebraska Health Care Cash Fund. Any money in the Nursing Facility Conversion Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. This section is revived to extend the existence of the fund for the payment of grants or loan guarantees made by the department prior to January 1, 2002, and to direct the transfer of the unobligated balance in such fund.

Sec. 8. Section 71-7611, Revised Statutes Supplement, 2002, is amended to read:

71-7611. (1) The Nebraska Health Care Cash Fund is created. ~~The fund shall include revenue transferred from the Nebraska Medicaid Intergovernmental Trust Fund and the Nebraska Tobacco Settlement Trust Fund.~~ The State Treasurer shall transfer fifty million dollars annually no later than July 15 from the Nebraska Medicaid Intergovernmental Trust Fund and the Nebraska Tobacco Settlement Trust Fund to the Nebraska Health Care Cash Fund. The state investment officer upon consultation with the Nebraska Investment Council shall advise the State Treasurer on the amounts to be transferred from the Nebraska Medicaid Intergovernmental Trust Fund and from the Nebraska Tobacco Settlement Trust Fund under this section in order to sustain such transfers in perpetuity. The state investment officer shall report to the Legislature on or before October 1 of every even-numbered year on the sustainability of such transfers.

(2) Any money in the Nebraska Health Care Cash Fund available for

investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 9. Section 71-7614, Revised Statutes Supplement, 2002, is amended to read:

71-7614. (1) The Nebraska Health Care Council is created. The council shall consist of a chairperson and eight additional members appointed by the Governor with the approval of a majority of the Legislature. The members shall be appointed for staggered three-year terms. The council shall include at least one consumer, one health care provider, and one member of a racial or ethnic minority. The Director of Finance and Support or his or her designee shall be a nonvoting, ex officio member of the council. Any vacancy shall be filled in the same manner as the original appointment for the unexpired term. Members of the council shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177. The Department of Health and Human Services Finance and Support shall provide staff support for the council. The Department of Health and Human Services and the Department of Health and Human Services Regulation and Licensure shall also assist the Department of Health and Human Services Finance and Support and the council as may be necessary.

(2) Five million dollars of Funds as appropriated by the Legislature from the Nebraska Health Care Cash Fund shall be used annually for grants awarded by the council for public health purposes as defined by the council and adopted in rules and regulations of the Department of Health and Human Services Finance and Support. At least seven hundred thousand dollars of fifteen percent of the funds appropriated for such grants shall be awarded annually by the council to improve racial and ethnic minority health. Grants awarded under this section shall not exceed three years in duration, except that extensions of up to one year may be granted by the council for good cause. The council shall report all such extensions to the Department of Health and Human Services Finance and Support and to the Health and Human Services Committee of the Legislature.

(3) The Department of Health and Human Services Finance and Support shall:

(a) In consultation with the council, develop criteria for the awarding of grants from the fund pursuant to this section;

(b) Approve or disapprove decisions by the council regarding the selection of projects to be funded and the distribution of project funding;

(c) In consultation with the council, establish standards, formats, procedures, and timelines for the successful implementation of approved projects;

(d) In consultation with the council, assist grant recipients in determining the effectiveness of the project and measure the accomplishment of the grant objectives;

(e) Provide annual reports to the Governor and the Legislature concerning the projects. Each report shall include a listing of priorities established by the council for grants awarded under this section, the number of applicants and approved applicants for such grants, an overview of the various funded projects, and detailed reports of the cost of such projects;

(f) In consultation with the council, adopt and promulgate rules and regulations establishing criteria, standards, and procedures regarding the selection and administration of funded projects; and

(g) Require recipients of grants under this section to provide such data relating to the funded projects as the department deems necessary.

Sec. 10. This act becomes operative on July 1, 2003.

Sec. 11. Original sections 71-1628.07, 71-1628.08, 71-5714, 71-7606, 71-7607, 71-7608, 71-7609, 71-7611, and 71-7614, Revised Statutes Supplement, 2002, are repealed.

Sec. 12. The following sections are outright repealed: Sections 71-1628.02, 71-1628.03, and 71-7611.01 to 71-7611.08, Revised Statutes Supplement, 2002.

Sec. 13. Since an emergency exists, this act takes effect when passed and approved according to law.